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5 Attorneys for Plaintiff

6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

8 BONNIE BAKER, individually,  
9 Plaintiff,

10 v.

11 WAL-MART STORES, INC.;  
12 Defendants.  
13

CASE NO. 2:19-cv-02218-GMN-VCF

**PROPOSED JOINT PRETRIAL ORDER**

14 The Parties, by and through their undersigned counsel, hereby submit this Joint Pretrial Order  
15 pursuant to LR 16-3. Following pretrial proceedings in this case, IT IS SO ORDERED:

16 **I. NATURE OF THE ACTION**

17 This is an action for personal injuries arising from an alleged slip and fall which occurred on  
18 July 29, 2018, at Walmart in Las Vegas, Nevada. Plaintiff Bonnie Baker contends that Wal-Mart  
19 breached its duty of care by failing to keep its premises in a reasonably safe condition for use. Wal-  
20 Mart disputes this and instead contends that it discharged its duty of care by maintaining the premises  
21 in a reasonably safe condition for use.

22 **II. STATEMENT OF JURISDICTION**

23 The court has jurisdiction over this civil action pursuant to 28 U.S.C. Section 1441(b) on the  
24 basis that this is a civil action between citizens of different states and the amount in controversy being  
25 potentially in excess of \$75,000, exclusive of interests and costs.

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1 **III. ADMITTED FACTS**

2 The following facts are admitted by the party and require no proof:

3 1. Bonnie Baker was at a Walmart store on July 29, 2018.

4 2. Video surveillance footage on July 29, 2018, shows a customer spill a container of  
5 blueberries on the floor at 2:35:46 p.m.

6 3. Walmart Associate, Jason Harvey, responded to the scene with a broom and dustpan  
7 at 2:36:07 p.m.

8 4. At 2:58:12 p.m., Plaintiff falls.

9 **IV. UNCONTESTED FACTS**

10 The following facts, though not admitted, will not be contested at trial by evidence to the  
11 contrary: None.

12 **V. ISSUES TO BE TRIED**

13 The following are issues of fact to be tried and determined upon trial:

14 1. All factual issues deemed relevant and admissible at trial.

15 **VI. ISSUES OF LAW**

16 The following are issues of law to be tried and determined upon trial:

17 1. Whether Walmart acted negligently.

18 2. Whether Walmart discharged its duty of care to maintain the premises in a reasonably  
19 safe condition for use.

20 3. Whether Walmart breached its duty of care to keep its premises in a reasonably safe  
21 condition for use.

22 4. Whether Walmart had notice, actual or constructive, of the foreign substance allegedly  
23 involved in the incident.

24 5. If a breach of duty of care is found, whether that breach legally caused an injury to  
25 Plaintiff, the extent of any such injury, and the extent of any and all damages.

26 6. Whether Plaintiff was comparatively negligent and/or contributed to her incident.

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## VII. EXHIBITS

**A.** The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:

Plaintiff's Exhibits:

None stipulated at this time.

Defendant's Exhibits:

None Stipulated at this time.

**B.** As to the following additional exhibits, the party against whom the same will be offered objects to their admission upon the grounds stated:

### 1. **Plaintiff's Exhibits:**

1.	Medical Bill and Records from Community Ambulance
2.	Medical Bills and Records from St. Rose Dominican Hospital – Siena
3.	Medical Bill from Fremont Emergency Services
4.	Medical Bill from Radiology Associates of Nevada
5.	Medical Bills and Records from Crovetti Orthopedics & Sports Medicine
6.	Medical Bills and Records from SimonMed Imaging, Inc.
7.	Medical Records from Timothy Soder Physical Therapy
8.	Affidavit of Custodian of Records, Medical Bill and Records from Sky Lakes Medical
9.	Custodian of Declaration and Medical Bills from Sound Physicians
10.	Medical Records and Bills from Riblett Therapy
11.	Billing Records from Valley Anesthesiology Consultants
12.	Medical Bill and Records from Desert Radiology
13.	Medical Record Review report prepared by Randa Bascharon, D.O.
14.	Store Incident Report
15.	Customer Incident Report
16.	Witness Statement of Jason Harvey
17.	Witness Statement of William Baker
18.	Witness Statement of Barbara L. Yager
19.	Witness Statement of Trina Jacobs
20.	Witness Statement of Steven Gonzalez
21.	Photographs pertaining to the Subject Incident
22.	Video Surveillance Footage of Incident Scene
23.	Policies and Procedures regarding Safety, Slips, Trips, and Falls, Inspections and Maintenance in Effect at Store 2593
24.	Daytime Maintenance Associate Job Description

25.	Overnight Maintenance Associate Job Description
26.	Walmart Store No. 2593 Floor Plan
27.	Claims Run for Walmart Store No. 2593 for Three Years Prior to July 29, 2018
28.	Imaging Records from St. Rose Hospital Siena Campus

Defendant objects to the production of all listed medical records and billing on the basis of foundation, authenticity, relevance, and hearsay as Defendant maintains there are causation issues involved in the instant litigation. These medical records include hearsay statements meant to prove the truth of the matter asserted by the Plaintiff. Further, Defendant maintains no foundation has been laid regarding the injuries allegedly sustained as outlined in said medical records and subsequent injuries would not be relevant to the issues of the case at bar. As to authenticity, Plaintiff has not provided authenticated documentation in relation to Plaintiff's medical records and this will require testimony from the medical record creators. Defendant further objects to the production of its proprietary information and maintains the listed policies and procedures and floor plans are irrelevant and require authentication as well as any prior incidents which are irrelevant to the subject incident and reversible error should they be admitted.

Defendant further reserves the right to object to any exhibit being offered by Plaintiff which has not been previously produced during the normal course of discovery proceedings. Defendants also reserves any and all evidentiary objections for trial.

## **2. Defendant's Exhibits:**

1.	Store Incident Report dated July 29, 2018 - Bates No. WM2019-022206-0001 to WM2019-022206-0002
2.	Customer Incident Report dated July 29, 2018 - Bates No. WM2019-022206-0003
3.	Witness Statement of JASON HARVEY dated July 29, 2018 - Bates No. WM2019-022206-0004
4.	Witness Statement of WILLIAM BAKER dated July 29, 2018 - Bates No. WM2019-022206-0005
5.	Witness Statement of BARBARA L. YAGER dated July 29, 2018 - Bates No. WM2019-022206-0006
6.	Witness Statement of TRINA JACOBS dated July 29, 2018 - Bates No. WM2019-022206-0007
7.	Witness Statement of STEVEN GONZALEZ dated July 29, 2018 - Bates No. WM2019-022206-0008
8.	Video Request Form Completed by TRINA JACOBS dated July 29, 2018 - Bates No. WM2019-022206-0009
9.	Photographs Pertaining to the Subject Incident - Bates No. WM2019-022206-0011 through Bates No. WM2019-022206-0016

10.	Video Surveillance Footage of Incident Scene captured July 29, 2018 - Bates No. WM2019-022206-0017
11.	Curriculum Vitae, Rate Sheet, and Trial Testimony List of Roger A. Fontes, M.D. - Bates No. WM2019-022206-1941 through WM2019-022206-1946
12.	Initial Expert Report of Roger A. Fontes, M.D. dated June 22, 2020 - Bates No. WM2019-022206-1947 through WM2019-022206-1966
13.	Addendum Report of Roger A. Fontes, M.D. dated August 16, 2020 - Bates No. WM2019-022206-1994 through WM2019-022206-2012

Plaintiff objects to the production of all listed statements on the basis of foundation, authenticity, relevance, and hearsay. These medical records include hearsay statements meant to prove the truth of the matter asserted by the Plaintiff. As to authenticity, Defendant has not provided authenticated documentation in relation to the statements and this will require testimony from the creator of the statements.

Plaintiff further reserves the right to object to any exhibit being offered by Defendant which has not been previously produced during the normal course of discovery proceedings. Plaintiff also reserves any and all evidentiary objections for trial

The parties reserve the right to use discovery responses, Rule 26(a) Disclosures and Supplements, and any document/items not identified herein for impeachment purposes.

The parties object to the proposed exhibits as follows: The parties reserve the right to utilize any exhibits from the parties' FRCP 26(a)(1) and/or FRCP 26(a)(3) disclosures and supplements thereto; from the parties' responses to written discovery requests and any supplements thereto; and from the parties' FRCP 26(a)(1) and/or FRCP 26(a)(3) disclosures and supplements thereto; and the parties' reserve the right to utilize any and all documents needed for rebuttal or purposes of impeachment not listed herein, including all documentation in accordance with admissible evidence.

**C. Electronic evidence:** The parties intend to present the video of the incident in electronic format to jurors for purposes of jury deliberations.

**D. Depositions:**

1. The parties do not anticipate offering any depositions at trial unless the witnesses become unavailable at the time of trial. Both Plaintiff and Defendant reserve the right to utilize any depositions offered by either party. In the event a party is notified that a witness is unavailable, the Parties agree to supplement this pretrial order and designate the portions of the deposition to be offered within 30-days of being notified that a party is unavailable for trial.

**E. Objections to Depositions:**

The parties reserve the right to object to deposition testimony when such sections are identified.

**VIII. WITNESSES**

The following witnesses may be called by the parties at trial:

**1. Plaintiff's witnesses:**

- a. BONNIE BAKER  
c/o Joshua L. Benson, Esq.  
BENSON ALLRED, PLLC  
6250 N. Durango Drive  
Las Vegas, Nevada 89149
- b. Person Most Knowledgeable for  
WAL-MART STORES, INC.  
c/o Robert K. Phillips, Esq.  
c/o Timothy D. Kuhls, Esq.  
PHILLIPS, SPALLAS & ANGSTADT, LLC  
504 S. 9<sup>th</sup> St.  
Las Vegas, Nevada 89101
- c. William Baker  
3880 Redondo Way  
Klamath Falls, OR 97603  
(541) 281-9891
- d. Morgan Vidnya, and/or  
Andrew Berkowski and/or  
Morgan Dorabrowski and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
Community Ambulance  
P.O. Box 30102, Dept. N809  
Salt Lake City, Utah 84130
- e. Paige Hixson, M.D., and/or  
Michael Sanders, M.D., and/or  
Justin Puopolo, M.D., and/or  
Jason Zeizel, M.D., and/or  
Stephanos Orphanidis, M.D., and/or  
Caleb Pinegar, DO, and/or  
Priya Shaw, M.D., and/or  
Ryan Labuz, DO, and/or  
Brandi Lewis-Polite, M.D., and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
St. Rose Dominican Hospital – Siena  
3001 St. Rose Pkwy.

Henderson, Nevada 89052

- f. Stephanos Orphanidis, M.D., and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
Fremont Emergency Services  
P.O. Box 638972  
Cincinnati, Ohio 45263
- g. Michael Sanders, M.D., and/or  
Justin Puopolo, M.D., and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
Radiology Associates of Nevada  
P.O. Box 30077  
Salt Lake City, Utah 84130
- h. Caleb Pinegar, DO, and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
Crovetti Orthopedics & Sports Medicine  
2779 W. Horizon Ridge Pkwy., #200  
Henderson, Nevada 89052
- i. Kevin Taylor, M.D., and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
SimonMed Imaging  
6301 Mountain Vista St., #103  
Henderson, Nevada 89014
- j. Calvin Wang, PT, MPT, and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
Timothy Soder Physical Therapy  
2779 W. Horizon Ridge Pkwy., #10  
Henderson, Nevada 89052
- k. Caroline Riblett, PT, LMT, and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
Riblett Therapy  
4790 Onyx Dr.  
Klamath Falls, Oregon 97603
- l. Christopher Baumann, M.D., and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
Sky Lakes Medical Center  
2865 Dagget Ave  
Klamath Falls, Oregon 97601  
(541) 882-6311
- m. Person Most Knowledgeable and/or  
Custodian of Records for

1 Sound Physicians  
1498 Pacific Avenue, Suite 400  
2 Tacoma, Washington 98402  
(855) 768-6363

3  
4 n. Brandi Lewis-Polite, M.D., and/or  
Person Most Knowledgeable and/or  
Custodian of Records for  
5 Valley Anesthesiology Consultants  
10120 S. Eastern Ave. 100  
6 Henderson, Nevada 89052

7 o. Randa Bascharon, D.O.  
Orthopedic & Sports Medicine Institute of Las Vegas  
8 7281 W. Sahara Ave., Suite 110  
Las Vegas, Nevada 89117

9  
10 p. Jimmy Wang, M.D., and/or  
Person Most Knowledgeable and/or  
11 Custodian of Records for  
Desert Radiology  
12 2020 Palomino Lane  
Las Vegas, Nevada 89106  
13

14 **2. Defendant's witnesses:**

15 a. JASON HARVEY  
c/o Phillips, Spallas & Angstadt, LLC  
16 504 South Ninth Street  
Las Vegas, NV 89101  
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18 b. BARBARA L. YAGER  
c/o Phillips, Spallas & Angstadt, LLC  
504 South Ninth Street  
19 Las Vegas, NV 89101

20 c. TRINA JACOBS  
c/o Phillips, Spallas & Angstadt, LLC  
21 504 South Ninth Street  
Las Vegas, NV 89101  
22

23 d. TRINA JACOBS  
c/o Phillips, Spallas & Angstadt, LLC  
504 South Ninth Street  
24 Las Vegas, NV 89101

25 e. Person Most Knowledgeable – Walmart No. 2593  
c/o Phillips, Spallas & Angstadt, LLC  
26 504 South Ninth Street  
Las Vegas, NV 89101  
27

28 f. ROGER A. FONTES, M.D.  
c/o Phillips, Spallas & Angstadt, LLC



504 South Ninth Street  
Las Vegas, NV 89101

g. Any and all treating physicians and medical providers listed by the Plaintiff.

h. Any and all witnesses named by the other parties to this action.

i. Any and all custodians of record and/or persons most knowledgeable for any and all of Plaintiff's past, present, or future treating physicians, medical care providers, or others that treated Plaintiff.

j. Any and all custodians of record and/or persons most knowledgeable of any and all entities from which records may be obtained, including, but not limited to, employers, schools, government agencies, private entities, and/or insurance companies.

k. Any and all witnesses, including rebuttal or impeachment witnesses, offered by the Plaintiff or other parties to this action. Defendant further reserves the right to name and list any witnesses deemed necessary for rebuttal and/or impeachment purposes.

The parties reserve the right to object to any witness identified by either party.

**IX. TRIAL DATE**

Counsel have met and herewith submit a list of three (3) agreed-upon trial dates:

1. August 8, 2022
2. August 15, 2022
3. August 22, 2022

It is expressly understood by the undersigned that the court will set the trial of this matter on one (1) of the agreed-upon dates if possible. If not, the trial will be set at the convenience of the court's calendar.

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**X. TIME FOR TRIAL**

It is estimated that the trial herein will take a total of 5 full judicial days.

**APPROVED AS TO FORM AND CONTENT BY:**

Dated this 8th of October, 2021.

Dated this 8th of October, 2021.

BENSON ALLRED INJURY LAW

PHILLIPS, SPALLAS & ANGSTADT, LLC

/s/ Joshua Benson  
Joshua L. Benson, Esq.  
6250 North Durango Drive  
Las Vegas, Nevada 89149  
*Attorneys for Plaintiff*

/s/ Megan Wessel  
Megan E. Wessel, Esq.  
504 S. Ninth St.  
Las Vegas, Nevada 89101  
*Attorneys for Defendant*

**XI. ACTION BY THE COURT**

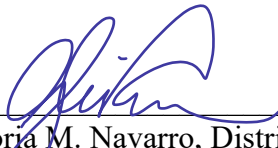
**IT IS HEREBY ORDERED** that this case is set for jury trial on the stacked calendar on August 22, 2022, at 8:30 a.m. in Courtroom 7D. Calendar call shall be held on August 16, 2022 at 9:00 a.m. in Courtroom 7D.

**IT IS FURTHER ORDERED** that the parties shall file trial briefs, exhibit and witness lists, proposed voir dire, and proposed jury instructions no later than August 16, 2022.

This pretrial order has been approved by the parties to this action as evidenced by the signatures of their counsel hereon, and the order is hereby entered and will govern the trial of this case. This order shall not be amended except by order of the court, pursuant to agreement of the parties, or to prevent manifest injustice.

**IT IS SO ORDERED.**

Dated this 18 day of October, 2021

  
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Gloria M. Navarro, District Judge  
UNITED STATES DISTRICT COURT